

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

LUX GLOBAL LABEL COMPANY, LLC)	CASE NO. 1:18CV00138
)	
)	
)	JUDGE CHRISTOPHER A. BOYKO
)	
Plaintiff,)	
vs.)	<u>PLAINTIFF'S MOTION FOR LEAVE</u>
)	<u>TO FILE A SECOND AMENDED</u>
JAMES H. SHACKLETT, IV, et al.,)	<u>COMPLAINT <i>INSTANTER</i></u>
)	
)	
Defendants.)	
)	
)	

Now comes Plaintiff, Lux Global Label Company, LLC ("Plaintiff"), by and through counsel, and respectfully moves this Honorable Court for leave to file a Second Amended Complaint to add new facts and parties based upon recently discovered information. A copy of the proposed Second Amended Complaint is attached as Exhibit 1. Good cause for filing a Second Amended Complaint exists based on newly discovered information that was unknown at the time of the filing of Plaintiff's Complaint and First Amended Complaint and which further supports Plaintiff's claims in this matter.

Pursuant to Fed. Civ. R. 15, the Court has the authority to grant Plaintiff leave to file this Second Amended Complaint under these circumstances. In pertinent part, Fed. Civ. R. 15 provides:

- (a) Amendments Before Trial.
 - (1) *Amending as a Matter of Course.* A party may amend its pleading once as a matter of course within:
 - (A) 21 days after serving it, or
 - (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier.

(2) *Other Amendments.* In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires.

As the Court is aware, Plaintiff initiated this action against Defendant James H. Shacklett IV on January 18, 2018 requesting a temporary restraining order and expedited discovery. [Doc. 1, 3, and 6]. In response, on January 31, 2018, Defendant Shacklett moved to stay the proceedings pending a to-be-filed Motion to Dismiss. [Doc. 9]. After initiating this matter, Plaintiff amended its Complaint on February 1, 2018 and added CCL Industries Corporation and unknown CCL entities and renewed its motions for temporary restraining order and expedited discovery. [Doc. 11, 15 and 17]. Plaintiff also opposed Defendant Shacklett's motion to stay the proceedings. [Doc. 10]. The Court then on February 9, 2018 ordered Defendant Shacklett's counsel to maintain the USB drive until an agreed upon third party forensic analysis could be done and to respond to Plaintiff's pending motions no later than February 20, 2018. [Doc. 19]. The parties then on February 9, 2018 stipulated to an extension until February 26, 2018 for Defendants to respond to Plaintiff's motions. [Doc. 22].

As required by the Court, the parties submitted the USB drive to an agreed upon forensic expert on February 9, 2018. The expert imaged the device and provided the parties with an inventory of the items on it. Based on this new forensic information, Plaintiff learned additional facts and information that are pertinent to this dispute and the claims against Defendants. Plaintiff also learned the impact of Defendant Shacklett's unlawful conduct to additional parties beyond the ones identified in Plaintiff's First Amended Complaint.

If leave is granted, no prejudice will occur to the parties as the matter is in the initial stages of litigation, and other than a motion deadline, there are no pending dates. Further, Defendants have yet to file any response or answer to Plaintiff's First Amended Complaint or

pending motions. Moreover, the Federal Civil Rules identify that leave to amend should be freely given when justice so requires. Here, Plaintiff is not seeking leave to amend its Complaint for purposes of delay or unfair prejudice, but to identify additional relevant facts which further support its claims against Defendant Shacklett and the other parties involved in the wrongful conduct alleged by Plaintiff.

For the reasons discussed above and for good cause shown, Plaintiff seeks leave to file the attached Second Amended Complaint *instanter*.

Respectfully submitted by:
ZASHIN & RICH CO LPA

s/ Ami J. Patel

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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2018, a true and correct copy of the foregoing *Plaintiff's Motion for Leave to File a Second Amended Complaint* was served to counsel of record for Defendants James H. Shacklett and CCL via the Court's electronic filing system and via process server and Federal Express upon any new parties.

Respectfully submitted by:

ZASHIN & RICH CO LPA

s/ Ami J. Patel

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